

APPLICANT:
Barry & Jennifer Jordan

REQUEST: Variance to permit an addition within the required 20 foot side yard setback in the Agricultural District

HEARING DATE: December 7, 2005

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

Case No. 5517

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Barry & Jennifer Jordan

LOCATION: 409 Wilgis Road – “Plan of Wilgis Road”, Fallston
Tax Map: 55 / Grid: 4C / Parcel: 769 / Lot: 6
Third (3rd) Election District

ZONING: AG / Agricultural

REQUEST: A variance pursuant to Section 267-34C, Table II of the Harford County Code to permit an addition to encroach into the required 20 foot side yard setback (14-1/2 feet proposed), in the Agricultural District.

TESTIMONY AND EVIDENCE OF RECORD:

The subject property is a 1.04 acre parcel located at 409 Wilgis Road, Fallston, Maryland. The property is improved by a one-story, three bedroom, ranch type dwelling. The Applicants and their two children have resided on the subject property for approximately the past five years. The driveway to the Applicants' property is located to its left front side, on which is also located a concrete porch.

The Department of Planning and Zoning Staff Report notes that the subject property is long and narrow in shape, with approximately 100 feet of road frontage on Wilgis Road. The topography is generally sloping to rolling, and backs to an area of dense woodlands. The private well is located to the front of the house; the septic system starts a few feet to the rear of the dwelling.

The Staff Report notes that the front yard variance as originally requested by the Applicants is no longer necessary as the Applicants' have worked with the Department in relocating the proposed garage out of the front yard setback. However, a side yard variance remains necessary for the proposed bedroom addition.

The Applicants described their proposed bedroom addition as being approximately 20 feet by 22 feet in dimension, to be located to the right hand side of the house as one views the house from the road. The addition will be within 14-1/2 feet of the side yard, which would require a 5-1/2 foot variance to the 20 feet side yard requirement.

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Mrs. Jordan testified that she has multiple sclerosis. The family's construction of a bedroom addition as proposed would save Mrs. Jordan from having to use interior steps from one elevation of the home to another. The addition would be at ground level and would eliminate many potential steps. The washer and dryer are currently located in the basement of the house. The Applicants' propose to put the washer and dryer in the new addition, which would also eliminate any interior steps for Mrs. Jordan. The addition would also be fully handicap accessible.

Mrs. Jordan explained that the driveway to the left of the house is shared with another neighbor. The addition, therefore, cannot be put on that side. The septic system is directly behind the house which would preclude the construction of the addition to the rear. Accordingly, Mrs. Jordan believes that the proposed location is the only suitable one for the proposed addition.

The Applicant described the proposed addition as similar to others in the neighborhood. However, her lot is one of the more narrow in the neighborhood, which is the primary reason, she believes, that a variance is necessary.

Mrs. Jordan has talked to all of her neighbors. None has expressed any objection and, in fact, her neighbors support the request.

Mr. and Mrs. Kramer, who are the next-door neighbors, attended the hearing and testified in support of the application.

The Harford County Department of Planning and Zoning has given a favorable recommendation stating, inter alia:

"The addition proposed cannot be added to the other side of the dwelling due to the existing driveway and access to the rear yard. Further, the driveway is also shared with the dwelling on the adjoining lot. The room cannot be added to the left rear of the dwelling because of the location of the existing septic system and drain fields. The only practical location for the proposed additional living space is on the right side of the dwelling as proposed. . . The subject dwelling is small as compared to other dwellings in the community and the proposed addition will be compatible with the neighborhood."

There was no testimony or evidence given in opposition.

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APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

(2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.

B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.

C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Testimony and other evidence of record indicates that the subject property is a relatively narrow but long lot as compared to other lots in the neighborhood. The Applicants propose to erect a relatively modest addition to the right side of their property -- an addition which is similar to many others throughout the neighborhood and throughout Harford County. However, given the relative narrowness of the lot, the existence of a shared driveway on one side of the property, and the septic fields in the back of the property, the only practical location is as proposed, which is impacted by a 20 foot side yard requirement.

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The proposed addition, which is primarily motivated by Mrs. Jordan's medical condition, will intrude 5-1/2 feet into the 20 foot side yard setback. The affected neighbors have expressed no opposition and, indeed, support the request.

It is, accordingly, found that the subject property is unique given its relatively narrow road frontage and shared driveway. This uniqueness causes a practical difficulty to the Applicants in that they are unable to construct an addition similar to others in the neighborhood, and similar to others throughout Harford County. The relief requested is the minimum necessary in order to build the requested addition.

Furthermore, it is found there is no adverse impact on the neighbors or neighborhood.

CONCLUSION:

It is, accordingly, recommended that the requested variance be granted, subject to the following conditions:

1. The Applicants obtain all necessary permits and inspections for the construction of the proposed addition.
2. The Applicants provide landscaping along the side lot line in the area of the proposed addition. A landscaping plan must be submitted to the Department of Planning and Zoning for review and approval prior to the issuance of building permits.
3. The Applicants comply with Health Department requirements for the addition, as outlined in its letter of November 7, 2005.

Date: January 9, 2006

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on FEBRUARY 7, 2006.